

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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BRANDON LEE GARZA,

Case No. 3:23-cv-00527-MMD-CLB

Petitioner,

ORDER

v.

WARDEN, ELY STATE PRISON, *et al.*,

Respondents.

Petitioner Brandon Lee Garza seeks habeas relief from a Nevada judgment of conviction sentencing to a term of six to twenty years. He filed a motion for leave to proceed *in forma pauperis* and a financial certificate which show that he is unable to pay the filing fee of \$5.00 required to initiate this action. (ECF No. 1.) Accordingly, Garza will be allowed to proceed without paying the filing fee.

Screening Garza's habeas petition, the Court notes that the petition is defective in the following respects. First, Garza did not use the correct form. A petition for writ of habeas corpus filed by a person who is not represented by an attorney must be on the form provided by this Court. LR 3-1. The form, when fully completed, includes information necessary for the Court to properly screen the petition in accordance with Rule 4 of the Rules Governing Habeas Corpus Cases Under Section 2254, such as whether the petition has been timely filed and whether the petitioner has exhausted state court remedies before proceeding in federal court. Thus, Garza must file his petition on the Court's approved form to properly commence this proceeding.

Second, the Court is unable to discern what Garza is alleging as grounds for habeas relief. While he appears to be asserting various instances of ineffective assistance of counsel and trial court error in relation to the sentence he received, his handwriting and rambling prose are difficult to decipher. So, in addition to filing his petition on the Court's

1 approved form, he must draft his claims so that they are understandable to the Court and
2 the opposing party.

3 Garza is advised to closely follow the instructions provided with the Court's form
4 petition for writ of habeas corpus, as well as the instructions on the form itself. In
5 particular, he should note that every claim in which he contends there was a violation of
6 his constitutional rights is a separate ground for relief and must be pleaded under a
7 separately-numbered ground in the form petition. In other words, each contention Garza
8 believes to be sufficient for the Court to grant relief is a claim/ground and must be
9 separately presented. In addition, each ground must include all the relevant facts that
10 support it, but only those facts.

11 The Court, therefore, instructs Garza to consider the matter carefully and to
12 determine all possible claims for habeas corpus relief. If he knows or learns of any
13 exhausted or unexhausted claims which are not included in the present petition, he should
14 include these additional claims in his amended petition. Garza's failure to inform the Court
15 of these additional claims may prevent him from raising these claims at a later date.

16 It is therefore ordered that Garza's motion for leave to proceed *in forma pauperis*
17 (ECF No. 1) is granted.

18 The Clerk of Court is further directed to file the petition for writ of habeas corpus
19 (ECF No. 1-1) and the accompanying motion for appointment of counsel (ECF No. 1-3).

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1 The Clerk of Court is further directed to send Garza two copies of a noncapital
2 Section 2254 habeas petition form, a copy of the instructions for the form, and a copy of
3 the papers that he submitted in this action. Garza will have 30 days to file his habeas
4 petition on a fully completed form. Failure to comply will result in the dismissal of this
5 action.

6 DATED THIS 2nd Day of November 2023.



MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE